

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MICHAEL JONES

Plaintiff,

-v.-

Civil Action No.
9:10-cv-1331 (GLS/ATB)

BRIAN FISCHER, DAVID ROCK,
et al.

Defendants.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

MICHAEL JONES
90-A-5292
Plaintiff, *pro se*
Sing Sing Correctional Facility
354 Hunter Street
Ossining, New York 10562

FOR THE DEFENDANTS:

HON. ERIC T. SCHNEIDERMAN
Attorney General for the
State of New York
The Capitol
Albany, New York 12224

KRISTA A. ROCK, ESQ.

GARY L. SHARPE,
CHIEF JUDGE

ORDER

The above-captioned matter comes to this court following a Report-
Recommendation by Magistrate Judge Andrew T. Baxter, duly filed May 1,

2012. Following ten days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

ORDERED, that the Report-Recommendation of Magistrate Judge Andrew T. Baxter filed May 1, 2012 is ACCEPTED in its entirety for the reasons state therein, and it is further

ORDERED that defendants' motion to dismiss (Dkt. No. 37) is GRANTED, and the complaint dismissed in its entirety without prejudice as to DEFENDANTS FISCHER, KNAPP-DAVID, ROCK, and RABIDEAU; and it is further

ORDERED that defendants' motion to dismiss (Dkt. No. 37) is DENIED as to DEFENDANT LEON, only with respect to the medical diet claim; and it is further

ORDERED that defendants' motion to dismiss (Dkt. No. 37) is DENIED as to defendants EGGLESTON, MASKUNAS, PRACK, WHALEN, and CHASE, only with respect to plaintiff's Due Process and First Amendment claims, relating to plaintiff's allegations of retaliatory false misbehavior reports and due process violations at the disciplinary hearings; and it is further

ORDERED, that the Clerk of the Court is to serve a copy of this order upon the parties in accordance with the court's local rules.

IT IS SO ORDERED

Dated: May 23, 2012
Albany, New York


Gary L. Sharpe
Chief Judge
U.S. District Court